

Queensland



**TRANSPORT
INFRASTRUCTURE
AMENDMENT BILL (No. 2)
1994**

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**MINOR AND CONSEQUENTIAL AMENDMENTS OF
TRANSPORT INFRASTRUCTURE ACT 1994**

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1994

A BILL

FOR

An Act to amend the *Transport Infrastructure Act 1994*, and for other purposes

| | |
|---|----------------------|
| The Parliament of Queensland enacts— | 1 |
| Short title | 2 |
| 1. This Act may be cited as the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> . | 3 4 |
| Commencement | 5 |
| 2. This Act commences on a day to be fixed by proclamation. | 6 |
| Amended Act | 7 |
| 3. This Act amends the <i>Transport Infrastructure Act 1994</i> . | 8 |
| Amendment of s 20 (Definitions) | 9 |
| 4. Section 20(1)— | 10 |
| <i>insert—</i> | 11 |
| ‘ “franchised road” means a road to which a road franchise agreement ¹ applies, and includes facilities identified in the road franchise agreement that are on or adjacent to the road and relate to the operation or servicing of the road or facilities for road users. | 12 13 14 15 |
| “franchisee” means a person with whom the Minister has entered into a road franchise agreement. | 16 17 |
| “road franchise agreement” see section 61AB.’ | 18 |
| Insertion of new Part | 19 |
| 5. Chapter 5, after Part 5— | 20 |
| <i>insert—</i> | 21 |

¹ Road franchise agreements are entered into under section 61AB.

‘PART 6—FRANCHISED ROADS

1

‘Objectives of Part

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‘61AA. The objectives of this Part are—

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- (a) to assist and encourage private investment in the construction, maintenance and operation of road transport infrastructure; and
- (b) by the involvement of private investment, to enable road transport infrastructure projects to be undertaken at an earlier time than would otherwise be possible; and
- (c) to provide an appropriate management structure for the construction, maintenance and operation of road transport infrastructure on a commercial basis.

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‘Power to enter into road franchise agreements

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‘61AB.(1) The Minister may, for the State, enter into an agreement (a **“road franchise agreement”**) with a person under which, or as part of which, the person is to invest in the construction, maintenance or operation of road transport infrastructure.

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‘(2) The agreement must be consistent with—

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- (a) the Coordination Plan; and
- (b) the objectives of this Act; and
- (c) the current transport infrastructure strategies; and
- (d) the obligations about government supported transport infrastructure set out in section 10.

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‘(3) The agreement may include, for example—

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- (a) provisions about the ownership of the road transport infrastructure; or
- (b) provisions about tolls for the use of the road transport infrastructure.

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| ‘Tabling of road franchise agreements | 1 |
| ‘61AC. The Minister must table each road franchise agreement, and each amendment of a road franchise agreement, in the Legislative Assembly as soon as practicable after it is entered into. | 2 3 4 |
| ‘Report on operation of Part | 5 |
| ‘61AD. Each annual report of the department must include a report on the operation of this Part during the financial year to which the report relates. | 6 7 8 |
| ‘Recovery of money | 9 |
| ‘61AE. If a road franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State. | 10 11 12 |
| ‘Rateability of land | 13 |
| ‘61AF.(1) In this section— | 14 |
| “road franchise agreement land” means land on which is situated road transport infrastructure to which a road franchise agreement applies. | 15 16 |
| (2) A regulation may provide that land is not rateable under the <i>Local Government Act 1993</i> or the <i>City of Brisbane Act 1924</i> . | 17 18 |
| ‘Power of chief executive to lease or dispose of land to franchisees | 19 |
| ‘61AG.(1) In this section— | 20 |
| “required land” means land that— | 21 |
| (a) has been acquired for transport purposes or an incidental purpose; and | 22 23 |
| (b) is required for road transport infrastructure for a road to which a road franchise agreement applies. | 24 25 |
| (2) The chief executive may, for the State, lease, sell or otherwise dispose of the required land to the franchisee of the road franchise | 26 27 |

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| agreement. | 1 |
| ‘(3) This section has effect despite the <i>Acquisition of Land Act 1967</i> . | 2 |
| ‘Application of other provisions of this Chapter | 3 |
| ‘61AH.(1) The provisions of the other Parts of this Chapter, and of regulations made for this Chapter, apply to a franchised road as if it were a State-controlled road. | 4 5 6 |
| ‘(2) A regulation may— | 7 |
| (a) prescribe changes to the way the provisions apply to a particular franchised road; or | 8 9 |
| (b) declare that some of the provisions do not apply to a particular franchised road. | 10 11 |
| ‘Guarantees, undertakings and stamp duty | 12 |
| ‘61AI. For the purpose of giving guarantees, undertakings or stamp duty exemptions to a franchisee, the following sections of the <i>Statutory Bodies Financial Arrangements Act 1982</i> apply, with all necessary changes and any changes prescribed by regulation, to the franchisee as if the franchisee were a statutory body within the meaning of the Act— | 13 14 15 16 17 |
| • section 16 (Treasurer’s guarantee) | 18 |
| • section 18 (Requirement for security) | 19 |
| • section 19 (Guarantee not affected by transfer of liability) | 20 |
| • section 20 (Recovery of moneys paid under guarantee) | 21 |
| • section 21 (This Part does not relieve statutory bodies from conditions precedent) | 22 23 |
| • section 38 (Exemption from stamp duty). | 24 |
| ‘Franchised roads to be roads for other purposes | 25 |
| ‘61AJ. A franchised road is a road for the purposes of the <i>Transport Infrastructure (Roads) Act 1991</i> .’. | 26 27 |

Transport Infrastructure Amendment (No. 2)

Acts amended in Sch 2

1

6. Schedule 2 amends the Acts mentioned in it.

2

Repeal of Acts

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7. The following Acts are repealed—

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- Gateway Bridge Agreement Act 1980 No. 10
- Gateway Bridge Agreement Act Amendment Act 1986 No. 85
- Motorways Agreements Act 1987 No. 39
- Logan Motorway Agreement Act Amendment Act 1988 No. 71.

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SCHEDULE 1
**MINOR AND CONSEQUENTIAL AMENDMENTS OF
TRANSPORT INFRASTRUCTURE ACT 1994**

section 3

1. Section 4(1)—
insert—

‘ **“transport purpose”** includes any purpose for which the Minister is responsible.’.

2. Section 4(2)—
omit, insert—

‘(2) Additional definitions are located in the following provisions—

(a) for Chapter 5 (Road transport infrastructure)—

- Part 1—section 20
- Part 4—sections 38(11) and 39(9)
- Part 5, Division 2, Subdivision 2—section 47;

(b) for Chapter 5A (Port infrastructure)—section 61A;

(c) for Chapter 6 (General provisions)—section 64;

(d) for Chapter 7 (Savings and transitional provisions, amendments and repeals)—

- Part 1—section 70
- Part 2—section 90.’.

3. Section 71(1)—
omit.

SCHEDULE 1 (continued)

| | |
|--|-------------|
| 4. Section 71— | 1 |
| <i>insert—</i> | 2 |
| ‘(3) Subsection (2) and this subsection expire 1 year after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 3 4 5 |
| 5. Section 72— | 6 |
| <i>insert—</i> | 7 |
| ‘(4) Subsections (1) to (3) are laws to which section 20A of the <i>Acts Interpretation Act 1954</i> applies. | 8 9 |
| ‘(5) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 10 11 |
| 6. Section 73— | 12 |
| <i>insert—</i> | 13 |
| ‘(2) Subsection (1) is a law to which section 20A of the <i>Acts Interpretation Act 1954</i> applies. | 14 15 |
| ‘(3) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 16 17 |
| 7. Section 74— | 18 |
| <i>insert—</i> | 19 |
| ‘(2) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 20 21 |
| 8. Section 75— | 22 |
| <i>omit.</i> | 23 |

SCHEDULE 1 (continued)

| | |
|--|----------------------------------|
| 9. Section 76— | 1 |
| <i>insert—</i> | 2 |
| ‘(2) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 3 4 |
| 10. Sections 77 to 80— | 5 |
| <i>omit.</i> | 6 |
| 11. After section 80— | 7 |
| <i>insert—</i> | 8 |
| ‘ Subdivision of land contiguous to State-controlled roads | 9 |
| ‘ 80A.(1) A consent, and a requirement of a consent, of the Corporation in force under section 3.16(1) of the <i>Transport Infrastructure (Roads) Act 1991</i> immediately before 15 April 1994 has effect, and is taken to have had effect, as if it were an approval, or a condition of an approval, by the chief executive under section 38(1) (Impact of certain local government decisions on State-controlled roads) of this Act. | 10 11 12 13 14 15 |
| ‘(2) This section expires 6 months after it commences.’. | 16 |
| 12. Section 81— | 17 |
| <i>insert—</i> | 18 |
| ‘(4) This section expires 1 year after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 19 20 |
| 13. Section 82— | 21 |
| <i>omit.</i> | 22 |

SCHEDULE 1 (continued)

| | |
|---|----------------------|
| 14. Section 83— | 1 |
| <i>insert—</i> | 2 |
| ‘(2) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> .’ | 3 4 |
| 15. Section 84— | 5 |
| <i>omit.</i> | 6 |
| 16. Section 85— | 7 |
| <i>insert—</i> | 8 |
| ‘(2) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> .’ | 9 10 |
| ‘(3) However, a regulation made within 2 years after the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> commences may extend the operation of the section for a specified period (not longer than 5 years after the commencement of that Act).’ | 11 12 13 14 |
| 17. Section 86— | 15 |
| <i>omit.</i> | 16 |
| 18. Section 87— | 17 |
| <i>insert—</i> | 18 |
| ‘(3) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> .’ | 19 20 |
| ‘(4) However, a regulation made within 2 years after the <i>Transport Infrastructure Amendment Act (No. 2) 1994</i> commences may extend the operation of the section for a specified period (not longer than 5 years after the commencement of that Act).’ | 21 22 23 24 |

SCHEDULE 1 (continued)

| | |
|---|----------------|
| 19. Section 88— | 1 |
| <i>insert—</i> | 2 |
| ‘(3) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 3 4 |
| 20. Section 89— | 5 |
| <i>insert—</i> | 6 |
| ‘(2) This section expires 2 years after the commencement of the <i>Transport Infrastructure Amendment Act (No. 2) 1994.</i> ’. | 7 8 |
| 21. Part 1, after section 89— | 9 |
| <i>insert—</i> | 10 |
| ‘Existing franchised road | 11 |
| ‘89A.(1) In this section— | 12 |
| “repealed Act” means— | 13 |
| (a) the <i>Gateway Bridge Agreement Act 1980</i> ; or | 14 |
| (b) the <i>Motorways Agreements Act 1987</i> . | 15 |
| ‘(2) An agreement in force under a repealed Act immediately before the commencement has effect under this Act as if it were a road franchise agreement. | 16 17 18 |
| ‘(3) However, section 61AC (Tabling of road franchise agreements) does not apply to the agreement. | 19 20 |
| ‘(4) A by-law in force under a repealed Act immediately before the commencement— | 21 22 |
| (a) remains in force for the purposes of this Act, subject to amendment or repeal by a regulation under this Act; and | 23 24 |
| (b) is to be read with the changes necessary to make it consistent with this Act and adapt its operation to the provisions of this Act. | 25 26 |

SCHEDULE 1 (continued)

| | |
|--|----------------|
| ‘(5) This section expires 1 year after it commences or, if an earlier date is prescribed by regulation, on that date. | 1 2 |
| ‘Application of s 20A of Acts Interpretation Act | 3 |
| ‘89B.(1) Section 20A applies to the following provisions (as in force immediately before the commencement of this section)— | 4 5 |
| • section 71(1) (State-controlled roads) | 6 |
| • section 75 (Arrangements with local governments and others) | 7 |
| • section 76 (Naturally occurring materials) | 8 |
| • section 77 (Approvals and determinations under s 3.6 of the Transport Infrastructure (Roads) Act 1991) | 9 10 |
| • section 78 (Works by local governments) | 11 |
| • section 79 (Construction and maintenance by others) | 12 |
| • section 80 (Works joining State-controlled roads) | 13 |
| • section 80A (Subdivision of land contiguous to State-controlled roads) | 14 15 |
| • section 82 (Ancillary works and encroachments) | 16 |
| • section 84 (Continuation of contracts). | 17 |
| ‘(2) This section expires 6 months after it commences.’. | 18 |
| 22. After section 131— | 19 |
| <i>insert—</i> | 20 |
| ‘Numbering and renumbering of Act | 21 |
| ‘131A. In the next reprint of the Act produced under the <i>Reprints Act 1992</i> , section 43 (Numbering and renumbering of provisions) of that Act must be used.’. | 22 23 24 |

SCHEDULE 1 (continued)

| | |
|---|----|
| 23. Schedule 1, item 1, after ‘motorways’— | 1 |
| <i>insert—</i> | 2 |
| ‘or access-limited roads’. | 3 |
| 24. Schedule 1, item 10(c)— | 4 |
| <i>omit, insert—</i> | 5 |
| ‘(c) franchised roads; or | 6 |
| (d) other roads with the agreement of the relevant local government.’. | 7 |
| 25. Schedule 2— | 8 |
| <i>insert—</i> | 9 |
| ‘38(8) Decision of chief executive about District or amount of compensation Magistrates’. | |
| | 10 |

SCHEDULE 2

1

AMENDMENTS OF OTHER ACTS

2

section 6

3

ABORIGINAL LAND ACT 1991

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1. Section 2.15(2), after ‘*Harbours Act 1955*’—

5

insert—

6

‘(as continued in effect under section 103 of the *Transport Infrastructure Act 1994*’.

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BUILDING ACT 1975

9

1. Section 4(5)(a)(ii)—

10

omit, insert—

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‘(ii) a port authority within the meaning of the *Transport Infrastructure Act 1994* that is not a GOC under the *Government Owned Corporations Act 1993*, in respect of the carrying out of building work not being a building classified in Part A3 of the Building Code of Australia as forming part of the Standard Building Law;’.

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**FOREIGN OWNERSHIP OF LAND REGISTER
ACT 1988**

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1. Section 4(1), definition “interest in land”, paragraph (d), after ‘*Harbours Act 1955*’—

20

21

insert—

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SCHEDULE 2 (continued)

‘(as continued in effect under section 104(2) of the *Transport Infrastructure Act 1994*)’.

2. Section 4(1), definition “interest in land”, paragraph (m), after ‘Harbours Act 1955’—

insert—

‘(as continued in effect under section 104(2) of the *Transport Infrastructure Act 1994*)’.

3. Section 4(1), definition “registering authority”—

omit, insert—

‘ “**registering authority**”, for a particular interest in land, includes the following—

- (a) the Registrar of Titles;
- (b) the Queensland Housing Commission;
- (c) the relevant port authority (within the meaning of the *Transport Infrastructure Act 1994*);
- (d) the relevant warden or mining registrar appointed under the *Mining Act 1968*;

as the tenure and location of the particular interest in land may require.’.

INTEGRATED RESORT DEVELOPMENT ACT 1987

1. Section 114(2)—

omit.

SCHEDULE 2 (continued)

- 2. Section 114(3)**— 1
renumber as section 114(2). 2
- 3. Section 149(3)**— 3
omit. 4
- 4. Schedule, Part A, clause 11, after ‘Harbours Act 1955’**— 5
insert— 6
‘(including provisions of that Act as continued in effect under the 7
Transport Infrastructure Act 1994)’. 8

LOCAL GOVERNMENT ACT 1993 9

- 1. Section 530(2), ‘harbour under the *Harbours Act 1955*’**— 10
omit, insert— 11
‘port under the *Transport Infrastructure Act 1994*’. 12
- 2. Section 530(5), ‘*Harbours Act 1955*’**— 13
omit, insert— 14
‘*Transport Infrastructure Act 1994*’. 15

MARINE SAFETY ACT 1994 16

- 1. Section 3(6), ‘Part 2’**— 17
omit, insert— 18
‘Part 3’. 19

SCHEDULE 2 (continued)

| | |
|--|----|
| 2. Section 4, definition “port”— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘ “port” has the same meaning as in the <i>Transport Infrastructure Act 1994</i> .’ | 3 |
| | 4 |
| 3. Section 31(4), ‘by regulation’— | 5 |
| <i>omit.</i> | 6 |
| 4. Section 45(2) and (3)— | 7 |
| <i>omit, insert—</i> | 8 |
| ‘(2) A standard is subordinate legislation. | 9 |
| ‘(3) A standard is not effective until it is approved by the Governor in Council.’ | 10 |
| | 11 |
| 5. Section 52— | 12 |
| <i>omit.</i> | 13 |
| 6. Section 53(2)— | 14 |
| <i>omit, insert—</i> | 15 |
| ‘(2) Subsection (1) applies whether the standard was made before or after the regulation.’ | 16 |
| | 17 |
| MIXED USE DEVELOPMENT ACT 1993 | 18 |
| 1. Section 164(3)— | 19 |
| <i>omit.</i> | 20 |

SCHEDULE 2 (continued)

SANCTUARY COVE RESORT ACT 1985**1. Section 98—***omit.***2. Sections 99 to 102—***omit, insert—***‘Obligation of authorities to maintain or undertake works**

‘99. An authority having jurisdiction over banks and foreshores of tidal waters is obliged to maintain or undertake works (including dredging) in relation to land within the site or tidal waters above land within the site, or for the Coomera River or the banks or foreshores of that river, only to the extent (if any) that it agrees in writing to accept the obligation.’

‘Movement of vessels on tidal waters

‘100.(1) The proprietor of land within the site has the right to restrict, regulate or prohibit the use or movement of vessels on, over, through or beneath tidal waters above the land if the waters are not beyond the quay line.

‘(2) If the proprietor of land within the site permits the mooring of a vessel in waters above the land, the proprietor of other land within the site must not restrict or prohibit the movement of the vessel over the proprietor’s land that is beyond the quay line to—

- (a) the mooring; or
- (b) the Coomera River; or
- (c) another place for which permission to moor the vessel has been given; or
- (d) tidal waters outside the site.’

SCHEDULE 2 (continued)

| | |
|---|-------------|
| ‘State not to grant lease etc. within site etc. | 1 |
| ‘101. The State may not grant a lease, a licence to use and occupy, or a permit to use and occupy, any foreshore, tidal lands or tidal waters within the site.’. | 2 3 4 |
| ‘Construction of floating dwelling houses and special dwelling houses | 5 |
| ‘102.(1) The construction of a floating dwelling house or a special dwelling house within the site is not— | 6 7 |
| (a) the construction of a vessel, harbour works or other works of any kind; or | 8 9 |
| (b) the placing of a pile or another structure; | 10 |
| in, on, over, through or across land that is submerged or subject to inundation or tidal influence. | 11 12 |
| ‘(2) Subsection (1) has effect only for purposes prescribed by regulation.’. | 13 14 |
| 6. Section 104(1), (3), (4) and (5), ‘Harbours Corporation or its delegate’— | 15 16 |
| <i>omit, insert—</i> | 17 |
| ‘chief executive’. | 18 |
| 7. Section 104(2), ‘Harbours Corporation’— | 19 |
| <i>omit, insert—</i> | 20 |
| ‘chief executive’. | 21 |
| 8. Section 104(7), ‘A delegate of the Harbours Corporation’— | 22 |
| <i>omit, insert—</i> | 23 |
| ‘The chief executive’. | 24 |

SCHEDULE 2 (continued)

| | |
|---|----|
| 9. Section 104(8), ‘a delegate of the Harbours Corporation’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘the chief executive’. | 3 |
| | |
| 10. Section 104(8), ‘the delegate’— | 4 |
| <i>omit, insert—</i> | 5 |
| ‘the chief executive’. | 6 |
| | |
| 11. Section 104(8), ‘delegate’s’— | 7 |
| <i>omit, insert—</i> | 8 |
| ‘chief executive’s’. | 9 |
| | |
| 12. After section 105— | 10 |
| <i>insert—</i> | 11 |
| ‘Delegation by chief executive | 12 |
| ‘105A. The chief executive may delegate the chief executive’s powers | 13 |
| under this Act to an officer or employee of the public service.’. | 14 |
| | |
| STATE SERVICE SUPERANNUATION ACT 1972 | 15 |
| | |
| 1. Section 4, definition “officer”, paragraph (bb)— | 16 |
| <i>omit, insert—</i> | 17 |
| ‘(bb)any person employed full-time in a permanent capacity by the | 18 |
| Port of Brisbane Corporation;’. | 19 |

SCHEDULE 2 (continued)

TORRES STRAIT ISLANDER LAND ACT 1991**1. Section 2.12(2), after ‘*Harbours Act 1955*’—***insert—*

‘(as continued in effect under section 103 of the *Transport Infrastructure Act 1994*’.

VALUATION OF LAND ACT 1944**1. Section 7(2)(e)(ii)—***omit, insert—*

‘(ii) a port authority within the meaning of the *Transport Infrastructure Act 1994*;’.